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Attorney for
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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN RAFAEL CITY SCHOOLS

CASE NO.C07-04702WHA
Related Case C07-5751 WHA

Plaintiff,

v.

OFFICE OF ADMINISTRATIVE
HEARINGS

Defendant, and

T.M., a minor,
Real Party in Interest.

**PARTIAL OPPOSITION TO MOTION
FOR ADMINISTRATIVE
RELIEF FOR
COORDINATION AND
CLARIFICATION OF BRIEFING
SCHEDULE**

The Plaintiff, SAN RAFAEL CITY SCHOOLS, has made n administrative motion to coordinate and clarify the briefing schedule. The Real Party In Interest, T.M., partially opposes the motion in this case. T.M. opposes the briefing schedule as set out by the Plaintiff, but does not oppose Plaintiff's request to set the deadline to submit his summary judgement motion 30 days after receipt of both the transcript and the answer in this case.

DISCUSSION

This Court recently ordered that the two appeals of the administrative decision in this matter are related. The original case 3:07-04702 ("District's Appeal) has been ordered to proceed under Local Rule 16-5. While an administrative motion has been filed by T.M. to have

1 the second case 3:07-5751 (T.M.'s appeal) also proceed under Local Rule 16-5, there has been no
2 ruling to date for that motion.

3 If T.M.'s appeal will also proceed under Local Rule 16-5, T.M. agrees that there is a need
4 to clarify the briefing schedule in this case. Since the District has not yet submitted an answer to
5 T.M.'s appeal, a briefing schedule with specific dates in the second case seems premature.

6 The District appeal seeks to overturn the entire decision. T.M.'s appeal seeks only review
7 of the remedy ordered in the underlying administrative decision. The actual contents of the
8 summary judgement motions will be quite different and require separate and distinct arguments.
9 Therefore, we propose that the briefing schedule proceed as ordered in the District appeal and
10 that the schedule in T.M.'s appeal proceed as under Local Rule 16-5. This way, both parties are
11 given equitable time to complete their motions for summary judgement. Under Plaintiff's
12 proposal, Plaintiff would be allowed many more weeks to complete their summary judgement
13 motion than T.M., clearing placing T.M. at a disadvantage. There will be no prejudice to Plaintiff
14 in allowing the staggering of due dates in this case, since all parties will have the same amount of
15 time to complete their respective motions. Further, the Plaintiff is not incurring any ongoing costs
16 relating to the appeals, since they have not paid the judgement.

17 If T.M.'s appeal is not ordered to proceed under Local Rule 16-5, there is no need for
18 clarification, as the existing schedule remains viable.

19 As to when the 30 days for the District to submit his summary judgement motion began to
20 run, T.M. will not oppose the motion to run the time as of the date the Plaintiff received both the
21 copy of the transcript and the summary judgement motion, December 4, 2007. This would result
22 in a due date of the summary judgement motion of January 4, 2008, assuming no changes made to
23 the schedule.

24 CONCLUSION

25 Therefore, T.M. respectfully requests that the Plaintiff's motion to coordinate the briefing
26 schedule be denied and does not oppose the District's motion to set the due date for the District's
27 summary judgement motion as January 4, 2008.

28

Respectfully submitted,

MARGARET M. BROUSSARD

Attorney for Real Party in Interest, T.M.

Dated: December 10, 2007

By: /s/_____

Margaret M. Broussard